

104TH CONGRESS
1ST SESSION

S. 775

To amend title 23, United States Code, to provide for the designation of the National Highway System, the establishment of certain financing improvements, and the creation of State infrastructure banks, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MAY 9 (legislative day, MAY 1), 1995

Mr. BAUCUS (by request) introduced the following bill; which was read twice and referred to the Committee on Environment and Public Works

A BILL

To amend title 23, United States Code, to provide for the designation of the National Highway System, the establishment of certain financing improvements, and the creation of State infrastructure banks, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 101. SHORT TITLE.**

4 This Act may be cited as the “National Highway
5 System Designation Act of 1995”.

1 **SEC. 102. NATIONAL HIGHWAY SYSTEM DESIGNATION.**

2 Section 103 of title 23, United States Code, is
3 amended by inserting after subsection (b) the following:

4 “(c) NATIONAL HIGHWAY SYSTEM DESIGNATION.—

5 “(1) DESIGNATION.—The most recent National
6 Highway System (as of the date of enactment of this
7 Act) as submitted by the Secretary of Transpor-
8 tation pursuant to this section is designated as the
9 National Highway System.

10 “(2) MODIFICATIONS.—

11 “(A) IN GENERAL.—At the request of a
12 State, the Secretary may—

13 “(i) add a new route segment to the
14 National Highway System; or

15 “(ii) delete a route segment in exist-
16 ence on the date of the request;

17 if the total mileage of the National Highway
18 System (including any route segment proposed
19 to be added under this subparagraph) does not
20 exceed 168,000 miles (270,480 kilometers).

21 “(B) PROCEDURES FOR CHANGES RE-
22 QUESTED BY STATES.—Each State that makes
23 a request for a change in the National Highway
24 System pursuant to subparagraph (A) shall es-
25 tablish that each change in a route segment re-
26 ferred to in the subparagraph has been identi-

1 fied by the State, in cooperation with local offi-
 2 cials, pursuant to applicable transportation
 3 planning activities for metropolitan areas car-
 4 ried out under section 134 of this title and
 5 statewide planning processes carried out under
 6 section 135 of this title.

7 “(3) APPROVAL BY THE SECRETARY.—The Sec-
 8 retary may approve a request made by a State for
 9 a change in the National Highway System pursuant
 10 to paragraph (2) if the Secretary determines that
 11 the change—

12 “(A) meets the criteria established for the
 13 National Highway System under this title; and

14 “(B) enhances the national transportation
 15 characteristics of the National Highway Sys-
 16 tem.”.

17 **SEC. 201. SHORT TITLE.**

18 This title may be cited as the “Financing Improve-
 19 ment Act of 1995”.

20 **SEC. 202. LIMITATION ON ADVANCE CONSTRUCTION.**

21 Section 115(d) of title 23, United States Code, is
 22 amended to read as follows:

23 “(d) LIMITATION ON ADVANCED FUNDING.—Sec-
 24 retary may not approve an application under this section
 25 unless the project is included in the State’s transportation

1 improvement program in accordance with section 135 of
2 this title.”.

3 **SEC. 203. PAYMENT TO STATES FOR CONSTRUCTION,**
4 **FLEXIBLE TAPERED SHARE.**

5 (a) STATE MATCHING SHARE.—Section 120 of title
6 23, United States Code, is amended by adding the follow-
7 ing new subsection:

8 “(j) USE OF OTHER FEDERAL FUNDING.—Notwith-
9 standing any other provision of this title, a State may use
10 Federal funds from sources other than this title to meet
11 the non-Federal share of a project under this title.”.

12 (b) PAYMENTS.—Section 121(a) of title 23, United
13 States Code, is amended to read as follows:

14 “(a) The Secretary may in his discretion, from time
15 to time, make payments to a State for costs of construc-
16 tion incurred by the State on a project. The Federal share
17 may vary during the life of a project, but at no time shall
18 such share exceed the Federal share payable under sec-
19 tions 106(c), 120, and 130 of this title.”.

20 (c) CONFORMING AMENDMENT.—Section 121(d) of
21 such title is amended as follows:

22 “(d) In making final payment pursuant to this sec-
23 tion, the Secretary shall be bound by the limitations with
24 respect to the permissible amounts of such payment con-
25 tained in sections 106(c), 120, and 130 of this title.”.

1 **SEC. 204. TOLL ROADS, BRIDGES, TUNNELS, NON-TOLL**
2 **ROADS THAT HAVE A DEDICATED REVENUE**
3 **SOURCE, AND FERRIES.**

4 Section 129 of title 23, United States Code, is
5 amended—

6 (1) by revising the title to read as follows:

7 **“§ 129. Toll roads, bridges, tunnels, non-toll roads**
8 **that have a dedicated revenue source,**
9 **and ferries”;**

10 and

11 (2) by revising paragraph 129(a)(7) to read as
12 follows:

13 “(7) LOANS.—

14 “(A) IN GENERAL.—A State may loan an
15 amount equal to all or part of the Federal share
16 of a toll project or a non-toll project that has
17 a dedicated revenue source, specifically dedi-
18 cated to such project or projects under this sec-
19 tion, to a public entity constructing or propos-
20 ing to construct a toll facility or non-toll facility
21 with a dedicated revenue source. Dedicated rev-
22 enue sources for non-toll facilities include: ex-
23 cise taxes, sales taxes, motor vehicle use fees,
24 tax on real property, tax increment financing,
25 or such other dedicated revenue source as the
26 Secretary deems appropriate.

1 “(B) COMPLIANCE WITH FEDERAL
2 LAWS.—As a condition of receiving a loan
3 under this paragraph, the public or private en-
4 tity that receives the loan shall ensure that the
5 qualifying project complies with the require-
6 ments of this title and any other applicable
7 Federal law, including any applicable provision
8 of Federal environmental laws.

9 “(C) SUBORDINATION OF DEBT.—The
10 amount of any loan received for a qualifying
11 project under this paragraph may be subordi-
12 nated to any other debt financing for the
13 project.

14 “(D) OBLIGATION OF FUNDS LOANED.—
15 Funds loaned pursuant to this paragraph may
16 be obligated for qualifying projects.

17 “(E) REPAYMENT.—The repayment of a
18 loan made pursuant to this paragraph shall
19 commence not later than 5 years after the facil-
20 ity that is the subject of the loan is open to
21 traffic.

22 “(F) TERM OF LOAN.—The term of a loan
23 to a public or private entity shall not exceed 30
24 years from the time the loan was obligated.

1 “(G) INTEREST.—A loan made pursuant
2 to this paragraph shall bear interest at or below
3 market interest rates, as determined by the
4 State to make the qualifying project that is the
5 subject of the loan feasible.

6 “(H) REUSE OF FUNDS.—Amounts repaid
7 to a State from a loan made under this para-
8 graph may be obligated—

9 “(i) for any purpose for which the
10 loan funds were available under title 23,
11 United States Code, or Public Law 102–
12 240; and

13 “(ii) for the purchase of insurance or
14 for use as a capital reserve for other forms
15 of credit enhancement for project debt in
16 order to improve credit market access or to
17 lower interest rates.

18 “(I) GUIDELINES.—The Secretary shall es-
19 tablish procedures and guidelines for making
20 loans pursuant to this paragraph.”.

21 **SEC. 205. STATE HIGHWAY DEPARTMENT.**

22 Section 302 of title 23, United States Code is amend-
23 ed to read as follows:

1 **“§ 302. State highway department**

2 “Any State desiring to avail itself of the provisions
3 of this title shall have a State highway department which
4 shall have adequate powers, and shall be suitably equipped
5 and organized to discharge, to the satisfaction of the Sec-
6 retary, the duties required by this title. This section does
7 not restrict the eligibility of costs that may be claimed by
8 a State nor limit a State’s authority to engage the services
9 of private professional firms.”.

10 **SEC. 206. DONATION OF PRIVATE FUNDS, ASSETS, AND PUB-**
11 **LICLY OWNED RIGHT-OF-WAY FOR FEDERAL-**
12 **AID PROJECTS.**

13 Section 323 of title 23, United States Code, relating
14 to donations, is amended—

15 (1) by redesignating subsection (c) as sub-
16 section (d);

17 (2) by inserting after subsection (b) the follow-
18 ing new subsection:

19 “(c) CREDIT FOR DONATION OF PRIVATE FUNDS,
20 ASSETS, AND PUBLICLY OWNED RIGHT-OF-WAY.—Noth-
21 ing in this title, or in any other provision of law should
22 be construed to prevent a person from donating private
23 funds or assets, or a State, county, city, or other political
24 subdivision of a State from donating publicly owned right-
25 of-way, in connection with a specific project constructed
26 under this title. The State matching share for a project

1 with respect to which Federal assistance is provided may
 2 be credited by the amount of the donated funds or the
 3 fair market value of publicly owned right-of-way incor-
 4 porated into the project by the State highway agency
 5 under this title.”; and

6 (3) by amending the first sentence of subsection
 7 (d), as so redesignated, to read as follows:

8 “(d) PROCEDURES.—A gift or donation in accordance
 9 with the above subsections may be made at any time dur-
 10 ing the development of a project.”.

11 **SEC. 301. SHORT TITLE.**

12 This title may be cited as the “State Infrastructure
 13 Bank Financing Improvement Act of 1995”.

14 **SEC. 302. STATE INFRASTRUCTURE BANKS**

15 NEW PROGRAM.—Chapter 1 of title 23, United
 16 States Code, is amended by adding at the end thereof the
 17 following new section:

18 **“§ . State Infrastructure Banks**

19 “(a) IN GENERAL.—Subject to the requirements of
 20 this section, a State may establish a State Infrastructure
 21 Bank for making loans and providing other assistance to
 22 public or private entities constructing or proposing to con-
 23 struct or initiate transportation projects, programs, or ac-
 24 tivities that are eligible to receive assistance under this

1 title or under Public Law 102–240, (hereafter also re-
2 ferred to in this section as a ‘qualifying project’).

3 “(b) DEPOSITS.—Notwithstanding any other provi-
4 sion of law, a State may deposit up to 15 percent of its
5 apportionments under section 104(b) and 144 for each re-
6 spective apportionment category under those sections, ex-
7 cept for Interstate construction, and up to 15 percent of
8 its allocation under section 157 of this title, after such
9 apportionment or allocation for the fiscal year, into a
10 State Infrastructure Bank, not later than 120 days after
11 the date of apportionment or allocation of such funds and
12 distribution of obligation limitation to the States by the
13 Secretary. The deposit into a State Infrastructure Bank
14 of any apportionment under section 104(b)(3) of this title
15 shall be derived from the State’s statewide flexible surface
16 transportation program apportionment, unless the appro-
17 priate metropolitan planning organization agrees that
18 urban or rural funds may be used. Federal disbursements
19 of capital reserves shall be at a rate consistent with the
20 Federal-aid highway program. A State may assign, trans-
21 fer, or loan to another State’s Infrastructure Bank, or to
22 multi-State compact or entity, that establishes a State In-
23 frastructure Bank, not more than the amount which a
24 State is otherwise entitled to deposit into its State Infra-
25 structure Bank.

1 “(c) CONSULTATION WITH MPOs.—A State shall
2 consult with metropolitan planning organizations with re-
3 gard to the programming of any State Infrastructure
4 Bank projects.

5 “(d) APPLICABILITY OF CASH MANAGEMENT RE-
6 QUIREMENTS.—For funds used as a capital reserve, sec-
7 tions 3335 and 6503 of title 31, United States Code, shall
8 not apply to this section.

9 “(e) MATCHING REQUIREMENTS.—A State is re-
10 quired to deposit into the transportation infrastructure
11 bank, from non-Federal or Federal sources other than title
12 23, United States Code, an amount equal to the propor-
13 tional non-Federal share that a State would otherwise pay
14 on the basis of section 120(b) of this title.

15 “(f) INVESTMENT INCOME.—Temporary investment
16 income generated by the funds deposited into a transpor-
17 tation infrastructure bank shall be—

18 “(1) credited to the transportation infrastruc-
19 ture bank;

20 “(2) available for use in providing loans and
21 other assistance to qualifying projects, programs, or
22 activities from the transportation infrastructure
23 bank; and

24 “(3) invested in United States Treasury securi-
25 ties, bank deposits, or such other financing instru-

1 ments as the Secretary may provide to earn interest
2 to enhance the leveraging of qualifying transpor-
3 tation activities.

4 “(g) TREATMENT OF FEDERAL DEPOSITS.—The de-
5 posit of Federal apportionments into a State Infrastruc-
6 ture Bank shall not be construed as a commitment, guar-
7 antee, or obligation on the part of the United States to
8 any third party, nor shall any third party have any right
9 against the United States for payment solely by virtue of
10 the deposit. Furthermore, any security or debt financing
11 instrument issued by a State Infrastructure Bank shall
12 expressly state that the security or instrument does not
13 constitute a commitment, guarantee, or obligation of the
14 United States.

15 “(h) LOANS AND OTHER ASSISTANCE.—

16 “(1) GENERAL AUTHORITY.—From amounts
17 deposited into a transportation infrastructure bank
18 established by a State or multi-State entity under
19 this section, a State or multi-State entity may loan
20 to a public or private entity, an amount equal to all
21 or part of the cost of construction or capital cost of
22 a qualifying transportation project eligible for fund-
23 ing under this section.

24 “(2) SUBORDINATION OF DEBT.—The amount
25 of any loan or other assistance received for a quali-

1 fying project under this paragraph may be subordi-
2 nated to any other debt financing for the project.

3 “(3) REPAYMENT.—The repayment of any loan
4 from a State transportation infrastructure bank
5 shall commence not later than 5 years after the fa-
6 cility has opened to traffic or the project, activity or
7 facility has been completed.

8 “(4) TERM OF LOAN.—The term for repaying
9 such loan shall not exceed 30 years from the date
10 of obligation of the loan.

11 “(5) INTEREST.—Any loan from a State Infra-
12 structure Bank shall bear interest as the State de-
13 termines appropriate to make the qualifying project
14 feasible.

15 “(6) REUSE OF FUNDS.—The repayment of a
16 loan or other assistance to a State from any loan
17 under this section may be credited to the transpor-
18 tation infrastructure bank or obligated for any pur-
19 pose for which the loaned funds were available under
20 this title.

21 “(7) PROCEDURES AND GUIDELINES.—The
22 Secretary shall establish procedures and guidelines
23 for establishing, operating, and making loans from a
24 State Infrastructure Bank.

1 “(8) DEFINITION OF OTHER ASSISTANCE.—For
2 purposes of this section, the term ‘other assistance’
3 includes any use of funds for the purpose of credit
4 enhancements, use as a capital reserve for bond or
5 debt instrument financing, bond or debt instrument
6 financing issuance costs, bond or debt issuance fi-
7 nancing insurance, subsidizing of interest rates, let-
8 ters of credit, credit instruments, bond or debt fi-
9 nancing instrument security, and other forms of
10 debt financing that relate to the qualifying project.

11 “(9) ADMINISTRATIVE COSTS.—For each fiscal
12 year, a State may use an amount not to exceed two
13 percent of the Federal funds deposited into a State
14 Infrastructure Bank to provide for the reasonable
15 costs of administering such fund.

16 “(10) ANNUAL REPORTS.—A State or multi-
17 State entity that establishes a transportation infra-
18 structure bank is required to make an annual report
19 to the Secretary on its status no later than Septem-
20 ber 30 of each year.

21 “(11) CONTINUING FEDERAL DEPOSITS.—As a
22 condition of receiving continuing Federal deposits
23 into a transportation infrastructure bank, a State or
24 multi-State entity must maintain an investment
25 grade rating on its debt issuances or have a suffi-

1 cient level of bond or debt financing instrument in-
2 surance to maintain the viability of the fund and
3 must have filed its annual report with the Sec-
4 retary.”.

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